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NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

ERICK ALFONSO ESCOBAR,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-71290

Agency No. A72-707-977

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 26, 2008**

Before: BEEZER, FERNANDEZ and McKEOWN, Circuit Judges.

Erick Alfonso Escobar, a native and citizen of Guatemala, petitions for review of the Board of Immigration Appeals' ("BIA") order dismissing his appeal from an immigration judge's decision denying his application for asylum,

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

withholding of removal and relief under the Convention Against Torture (“CAT”). To the extent we have jurisdiction, it is conferred by 8 U.S.C. § 1252. We review for substantial evidence, *see Gonzales-Hernandez v. Ashcroft*, 336 F.3d 995, 998 (9th Cir. 2003) and we deny in part and dismiss in part the petition for review.

Substantial evidence supports the agency’s conclusion that the government rebutted the presumption that Escobar had a well-founded fear of future persecution by proving that country conditions in Guatemala changed significantly since his departure. *See Gonzales-Hernandez*, 336 F.3d at 998. The agency’s analysis of how the 1996 peace accords in Guatemala affected Escobar’s specific situation was sufficiently individualized. *See id.* at 998-99.

Because Escobar failed to establish eligibility for asylum, he necessarily fails to meet the more stringent standard for withholding of removal. *See Malhi v. INS*, 336 F.3d 989, 993 (9th Cir. 2003). Substantial evidence also supports the BIA’s denial of CAT relief because Escobar failed to show it is more likely than not that he would be tortured if returned to Guatemala. *See id.*

We lack jurisdiction to review Escobar’s argument that he is eligible for humanitarian asylum because he did not exhaust the issue before the agency. *See Barron v. Ashcroft*, 358 F.3d 674, 676 (9th Cir. 2004).

PETITION FOR REVIEW DENIED in part; DISMISSED in part.